

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

In re Volkswagen AG Securities Litigation

Case No. 1:22-cv-00045-RDA-TCB

**AMENDED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

Lead Plaintiff Laszlo Rozsavolgyi and named Plaintiff Thomas Wells (“Plaintiffs” or “Investors”), individually and on behalf of all other persons similarly situated, by Investors’ undersigned attorneys, for Investors’ complaint against Defendants (defined below), alleges the following based upon personal knowledge as to Investors and Investors’ own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Investors’ attorneys, which included, among other things, a review of Defendants’ public documents, conference calls and announcements made by Defendants, United States Securities and Exchange Commission (“SEC”) filings, wire and press releases published by and regarding Defendants, and information readily obtainable on the Internet. Investors believe that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a class action on behalf of persons or entities who purchased the publicly traded American Depository Shares (“ADSs”) of Volkswagen Aktiengesellschaft (“Volkswagen AG”) common shares (ticker symbol VWAGY) between March 29, 2021 and March 30, 2021,

inclusive (the “Class Period”) and were damaged thereby. Investors seek to recover compensable damages caused by Defendants’ violations of the federal securities laws under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”).

2. Having paid over \$35 billion in fines in connection with one of the largest scandals in corporate history, “Dieselgate,” in which Volkswagen intentionally installed illegal software in its vehicles to cheat diesel emissions tests- Volkswagen has spent the past several years trying to rebuild trust with consumers and investors.

3. Against the backdrop of Dieselgate, Volkswagen pledged not only to rebuild its credibility but to be the top manufacturer of electric vehicles (“EVs”), characterizing “e-mobility” as the Company’s “core business.” Despite blunders in connection with the release of its first EV in the U.S. in 2020, Defendants were determined to “overtake” Tesla. Indeed, the Company closely followed Tesla, and its controversial CEO Elon Musk’s, every move and consciously emulated their actions.

4. Of course, Volkswagen was not the only automobile manufacturer vying to compete with Tesla. As *Bloomberg* pointed out in March 2021, “EV’s are shifting from what seemed like a one-man show to an extravaganza with an increasingly crowded stage.” Accordingly, as *The New York Times* stated, Volkswagen would have to “make a splash” to sell a lot of electric cars in the U.S.

5. On March 29, 2021, approximately two weeks after launching its all-electric SUV, the ID.4, in the U.S., Volkswagen Group of America (“VWoA,” together with Volkswagen AG, the “Volkswagen” or the “Company”) published on its website a “draft” press release. The press release stated that VWoA would be changing its name from Volkswagen to **Volts**wagen- the “volt” referring to electromotive force. The press release stated the name change would take effect in

May, and called the change “more than a name change,” “a public declaration of the company’s future-forward investment in e-mobility.” The Company took down the “draft” press release shortly after publishing it. Before doing so it sent an email to dozens of reporters with a link to the press release from an anonymous Gmail account. CNBC was the first to report on the name change, at approximately 1:45pm on March 29.

6. The draft press release (dated April 29) provided the Company with tremendous free publicity. Dozens of the top news sources published stories about the name change and its implications which also contained details about the Company’s electric vehicles.

7. The Company repeatedly assured journalists that the statements in the press release were true. Volkswagen Group of America’s communications head Mark Gillies personally confirmed to the *Associated Press* that the name change and rebranding would indeed occur. Many other journalists, concerned about accurate reporting, received personal confirmation from the Company that that the statements in the press release were true prior to reporting them.

8. On March 30, 2021 Volkswagen Group of America republished the press release on its website. The press release quoted VWoA CEO Keough, stating in part that “*We have said, from the beginning of our shift to an electric future, that we will build EVs for the millions, not just millionaires. This name change signifies a nod to our past as the peoples’ car and our firm belief that our future is in being the peoples’ electric car.*” The press release stated that the name change would begin in May 2021 and that the rebranding would include a revised name, brand guidelines and VW.com design.

9. The Company also issued a post on its official Twitter account with a flashy video showing the “k” in Volkswagen” changing to a “t.”

10. The Company's official publication of the press release reassured investors, journalists and analysts who initially questioned whether the Company was in fact changing its name that the name change was true. This provided the Company with more publicity. All the top news sources, including the *AP*, the *Wall Street Journal*, *Barrons*, *USA Today*, *The Guardian*, CNBC, and countless others reported on the name change.

11. Stock market analysts also lauded the name change and released guidance about its implications. Wedbush Securities analyst Dan Ives issued a bullish research note, stating "we believe the name change underscores VW's clear commitment to its EV brand and massive EV endeavors over the coming years." A member of Tesla's board of directors even opined on how the name change positively reflected Volkswagen's commitment to electric vehicles, stating "this is more than changing corporate logo...They are absolutely serious."

12. News of the name change also materially impacted the price of Volkswagen's ADSs, which increased over 10% between the time CNBC reported the name change on March 29, 2021 and the close of trading on March 30, 2021.

13. After the close of trading on March 30, 2021 the Company removed the press release from its website. Shortly thereafter, the *Wall Street Journal* published a "news exclusive" revealing that the name change was a hoax. Indeed, the *Wall Street Journal* contacted a Company official in Germany who admitted "there will be no name change."

14. On this news, the price of Volkswagen's ADSs fell more than 5% over the next two full trading days, damaging investors.

15. The unanimous reactions of journalists and market commentators who expressed disgust and outrage confirm that Defendants intended to, and did, deceive the investing public, artificially inflating the price of Volkswagen shares.

16. The *Wall Street Journal* wrote “everyone took it seriously, creating confusion about the company’s intentions and moving the shares.” The *Associated Press*, who Defendant Gillies personally reassured of the veracity of the name change wrote, “the company used this fake news announcement as a way to manipulate respected reporters from trusted news outlets to get attention for their marketing campaign.” *USA Today* wrote “***This was not a joke, it was deception***...why should anyone trust [Volkswagen] again.”

17. Law professors, the analyst who published a bullish report on the Company after it issued the March 30 press release, and even a former SEC chief economist expressed outrage at the Company’s intentional and material deception, especially given the Company’s history of fraud (i.e. Dieselgate). Duke University securities law professor James Cox urged the SEC to take action, stating “we need to throw a pretty clear line in the sand [...] about what is permissible and what isn’t.” Dan Ives of Wedbush noted that “many got fooled” opining that “ultimately, it’s going to potentially have some ramifications.” Former SEC chief economist Chester Spatt stated that the Company’s “full-fledged” nature of its false press release and status as a repeat offender when it comes to misleading the public weighed in favor of the SEC taking action against it.

18. Indeed, in late April 2021 German newspaper *Der Spiegel* reported that Volkswagen confirmed that the SEC had begun investigating it.

19. While investors were harmed, Defendants benefitted from the fraud. Defendants false press releases provided the Company with the publicity it intended to achieve. News of the “name change” reached ***150 million*** people, and “Volkswagen” was mentioned 6,045 times on news and social media sites. VWoA CEO Scott Keough himself admitted: “the upside is, obviously the social media response has been the biggest numbers we’ve ever seen.”

20. In issuing the false press releases Defendants were able to have their cake and eat it too. They garnered all the publicity and attention of rebranding, piquing consumer's interest in the ID.4, without the steep risks and costs associated with rebranding.

JURISDICTION AND VENUE

21. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

22. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

23. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as the alleged misstatements entered and the subsequent damages took place in this judicial district, and Volkswagen conducts substantial business in this district.

24. Volkswagen AG is subject to personal jurisdiction in the United States and in this District because, as alleged in further detail below: (i) it engaged in the fraudulent scheme and course of conduct described herein, including by engaging in fraud that arose from transactions and occurrences that took place in and caused foreseeable losses in the United States and this District; (ii) in committing the fraudulent acts complained of herein, Volkswagen AG operated as a unitary business and an integrated enterprise with its wholly-owned subsidiaries, including those based in this District and elsewhere in the United States, and controlled the internal affairs and operations of those subsidiaries to the extent they became mere instrumentalities of their parent; and (iii) Volkswagen AG has had and continues to have systematic contacts with this forum that render it home in the United States and this District.

25. In connection with the acts, conduct and other wrongs alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

26. Lead Plaintiff Laszlo Rozsavolgyi purchased 8,150 Volkswagen ADSs during the Class Period, as set forth in his PSLRA certification, filed with the Court and incorporated by reference herein. Mr. Rozsavolgyi purchased Volkswagen ADSs through transactions in the OTC Market in the United States on March 30, 2021 thereby acquiring an ownership interest in 815 shares of Volkswagen stock issued and authorized for sale by Volkswagen.

27. The Volkswagen American Depositary Receipts (“ADRs”) reflecting Mr. Rozsavolgyi’s purchase and his beneficial ownership of the Volkswagen ADS’s was issued by a depository bank located in New York City, within the United States.

28. Mr. Rozsavolgyi’s purchase of Volkswagen ADSs was directed by his brokerage firm, Tradestation Securities, located in Plantation, Florida, within the United States. Tradestation purchased Volkswagen ADSs for Mr. Rozsavolgyi on the OTC Market, which is based in New York. Mr. Rozsavolgyi therefore incurred irrevocable liability in the United States to purchase the shares he acquired during the Class Period, because the placement of the buy order and the transfer of title to the securities took place within the territorial jurisdiction of the United States.

29. Named Plaintiff Thomas Wells purchased 42 Volkswagen ADSs during the Class Period, as set forth in his PSLRA certification, attached hereto as Exhibit A and incorporated by reference herein. Mr. Wells purchased Volkswagen ADSs through transactions in the OTC Market in the United States on March 30, 2021 thereby acquiring an ownership interest in 4.2 shares of Volkswagen stock issued and authorized for sale by Volkswagen.

30. The Volkswagen American Depository Receipts (“ADRs”) reflecting Mr. Wells’s purchase and his beneficial ownership of the Volkswagen ADS’s was issued by a depository bank located in New York City, within the United States.

31. Mr. Wells’s purchase of Volkswagen ADSs was directed by his brokerage firm, Fidelity Investments, located in Boston, Massachusetts within the United States. Fidelity purchased Volkswagen ADSs for Mr. Wells on the OTC Market, which is based in New York. Mr. Wells therefore incurred irrevocable liability in the United States to purchase the shares he acquired during the Class Period, because the placement of the buy order and the transfer of title to the securities took place within the territorial jurisdiction of the United States.

32. Defendant Volkswagen AG is a German corporation with its principal place of business in Wolfsburg, Germany. Volkswagen manufactures and sells automobiles in North America, South America, Europe and Asia-Pacific. Although the Company is incorporated and headquartered in Germany, it sells its vehicles in multiple locations throughout the United States. Volkswagen AG’s common shares are traded on the OTC under the ticker symbol “VWAGY.”

33. On an ongoing basis and for each fiscal year, Volkswagen AG published on its Internet website English-language versions of its annual and quarterly reports, earnings and other press releases, investor presentations, governance and business policies, and other information reflecting the Company’s results of operations or financial condition required to maintain exemption from registration under Rule 12g3-2(b) under the Securities Exchange Act of 1934.

34. Defendant VWoA is a wholly owned subsidiary of Volkswagen AG. VWoA houses the U.S. operations of Volkswagen AG’s brands including Volkswagen, Audi, Bentley, Bugatti and Lamborghini as well as VW Credit, Inc. VWoA’s Chatanooga Operations LLC is a wholly owned subsidiary of VWoA which operates an assembly plant in Chattanooga, Tennessee.

VWoA's headquarters are located in Herndon, Virginia. VW AG, through VWoA, sells its vehicles through a network of approximately 1,000 independent dealers in the United States.

35. Defendant Scott Keough ("Keough") has been the Chief Executive Officer and President of VWoA and the head of the Volkswagen brand in North America since 2018.

36. Defendant Mark Gillies ("Gillies") has been the Head of Product and Technology Communications of VWoA since 2011 and served as VWoA's acting head of communications during the Class Period.

37. Defendants Keough and Gillies are collectively referred to herein as the "Individual Defendants."

38. Each of the Individual Defendants:

- (a) directly participated in the management of the Company;
- (b) was directly involved in the day-to-day operations of the Company at the highest levels;
- (c) was privy to confidential proprietary information concerning the Company and its business and operations;
- (d) was directly or indirectly involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein;
- (e) was directly or indirectly involved in the oversight or implementation of the Company's internal controls;
- (f) was aware of or recklessly disregarded the fact that the false and misleading statements were being issued concerning the Company; and/or

(g) approved or ratified these statements in violation of the federal securities laws.

39. The Company is liable for the acts of the Individual Defendants and its employees under the doctrine of *respondeat superior* and common law principles of agency because all of the wrongful acts complained of herein were carried out within the scope of their employment.

40. The scienter of the Individual Defendants and other employees and agents of the Company is similarly imputed to the Company under *respondeat superior* and agency principles.

41. The Company and the Individual Defendants are referred to herein, collectively, as the “Defendants.”

SECURITIES AT ISSUE

42. Volkswagen AG’s ordinary shares are publicly traded on the Frankfurt stock exchange under the ticker symbol 766400.

43. Volkswagen AG’s ordinary (common) shares are also packaged and sold on the OTC Market in the United States under the ticker symbols “VWAGY.” VWAGY is an American Depository Share (“ADS”) reflecting ownership of shares of 766400 that have been deposited with or are otherwise controlled by a depository institution in the United States and held for the benefit of the VWAGY purchaser.

44. One share of VWAGY conferred on Class Period purchasers beneficial ownership one-tenth of one share of Volkswagen 766400 common stock that had been authorized for sale by VW AG. OTC Markets Group identifies VWAGY as an ADR on its website.

45. Purchasers of VWAGY shares on the OTC Market become irrevocably liable to purchase the shares at the stated price at the time their purchase order is placed.

46. Only shares of common stock that had been issued and authorized by Volkswagen were available to be sold as ADSs in the United States under the ticker symbol VWAGY.

Trading in Volkswagen ADSs

47. In 1927 Congress authorized the sale of ADSs as a way to permit American investors to diversify their portfolios by acquiring shares of foreign companies without the necessity of purchasing those shares on foreign exchanges using foreign currency. The SEC has explained that “ADRs allow U.S. investors to invest in non-U.S. companies and give non-U.S. companies easier access to the U.S. capital markets.” SEC Office of Investor Education and Advocacy, Investor Bulletin: American Depository Receipts (Aug. 2012) at 1 (“SEC ADR Bulletin”).

48. VWAGY other ADSs are sold in the United States pursuant to regulations the SEC has adopted, including SEC Rule 12g3-2(b), 17 C.F.R. § 240.12g3-2(b).

49. The purchase of an ADS is equivalent to the purchase of the underlying foreign securities (here, 766400) which depositary banks hold for the benefit of the purchasers of the ADS (here, VWAGY).

50. As the SEC explained:

An ADR is a negotiable certificate that evidences an ownership interest in American Depository Shares (“ADSs”) which, in turn, represent an interest in the shares of a non-U.S. company that have been deposited with a U.S. bank. It is similar to a stock certificate representing shares of stock. The terms ADR and ADS are often used interchangeably by market participants. ADRs trade in U.S. dollars and clear through U.S. settlement systems, allowing ADR holders to avoid having to transact in a foreign currency.

SEC ADR Bulletin at 1.

51. Thus, ADSs, including VWAGY, are securities that represent specific shares of stock of foreign issuers that have been deposited with a U.S. bank.

52. ADSs may be either “sponsored” or “unsponsored.” Sponsored ADSs are established pursuant to a contract signed by the foreign issuer. Unsponsored ADSs are established by one or more depository banks by filing a Form F-6 with the SEC. Unsponsored ADSs may only be established where, *inter alia*: (i) no sponsored ADS program exists; (ii) the foreign issuer is listed on a regulated foreign exchange; (iii) the foreign issuer provides regular financial reports and other investor information in English, and on a website that is generally available to U.S. investors; and (iv) the holder of the ADS is entitled to receive the corresponding deposited shares issued by the foreign company on demand at any time.

53. Up until 2018 Volkswagen AG had sponsored ADR programs. According to Volkswagen’s website, Volkswagen terminated each of its sponsored ADR programs effective August 13, 2018. Volkswagen’s website states that it reached the approved registration limit for its ADR programs and decided not to renew them.

54. Unsponsored ADSs are *not* sold without the express or implied consent of the foreign issuer. As described below, each of the depository institutions involved in the sale of unsponsored ADSs has a regular practice of contacting foreign issuers before establishing an unsponsored program, and generally will not establish or sell unsponsored ADSs where the foreign issuer refuses to consent.

55. VWAGY are unsponsored ADSs.

56. VWAGY ADSs are denominated in U.S. dollars, cleared though U.S. settlement systems, and listed alongside U.S. stocks.

57. Four depository institutions have filed Forms F-6EF with the SEC to register and issue Volkswagen ADRs in the United States: Deutsche Bank Trust Company Americas

(“Deutsche Bank”), JPMorgan Chase Bank, N.A. (“JPMorgan”), Bank of New York Mellon (“BNY Mellon”) and Citibank N.A. (“Citibank”) (collectively, the “Depository Banks”).

58. The number of Volkswagen ADSs that are available for sale in the United States is limited by the number of Volkswagen shares that Volkswagen has issued and authorized for sale. Depository banks are prohibited from selling Volkswagen shares that are not supported by underlying foreign shares of stock deposited and held by the depositary. Accordingly, the Depository Banks have no ability to create or issue additional securities of shares of Volkswagen beyond those Volkswagen has specifically issued and authorized for sale.

59. The Forms F-6EF filed by each of the Depository Banks identify the location of its depository as a physical address in New York City, New York, within the territory of the United States.

60. Each Form F-6EF includes a form of agreement between the Depository Bank and the holders of Volkswagen ADSs (a “Form of Receipt”). Each such agreement the Depository Banks filed states that it is to be interpreted under the laws of New York, within the United States.

61. Purchasers of Volkswagen ADSs have the right under the Form of Receipt filed by the Depository Banks to tender their ADSs to the Depository Bank and receive the underlying shares in return. The Forms of Receipt attached to the Forms F-6EF the Depository Banks filed require that, to obtain their underlying shares, purchasers must tender their receipt evidencing the purchase of ADSs (i.e., their ADR), at the Depository Bank’s office in New York.

62. Each Form of Receipt attached to the Forms F-6EF filed by the Depository Banks contains the following clause, or a substantially identical clause:

Until surrender of this Receipt in accordance with the terms hereof, the Depository will maintain at a designated office in the Borough of Manhattan, The City of New York, a register for the registration of Receipts and transfers of Receipts and where the Holders of Receipts may during regular business hours inspect the transfer

books or the list of Holders of Receipts as maintained by the Depositary. The transfer of this Receipt is registrable on the transfer books of the Depositary at its Designated Office by the registered Holder hereof in person or by the duly authorized attorney of the Holder, upon surrender of this Receipt properly endorsed for transfer or accompanied by proper instruments of transfer and payment of funds sufficient to pay any applicable taxes, governmental charges, and the fees and expenses of the Depositary and upon compliance with such regulations, if any, as the Depositary may establish for such purpose.

63. Consistent with the economic reality of the transaction, the Form of Receipt the Depositary Banks filed with the SEC reflects that purchasers are given a receipt reflecting their purchase and ownership of shares of Volkswagen ordinary shares (766400) that Volkswagen has authorized and issued.

Volkswagen's Consent to Sale of Volkswagen ADSs

64. It is a regular practice and custom in the industry for a depositary institution to notify the foreign issuer of securities of its intent to register those securities for sale as unsponsored ADSs in the United States, and to obtain its affirmative or implied consent to the sale of those securities before the depositary sells an unsponsored ADS. If a foreign issuer refuses to consent or otherwise objects to the establishment of an unsponsored ADS program, a depositary institution ordinarily will not proceed to register or sell those shares as unsponsored ADSs.

65. For example, in a regulatory comment letter Deutsche Bank sent to the SEC on April 21, 2008 addressing the question of whether proposed regulations should require formal consent from foreign issuers before an unsponsored ADS program is established, Deutsche Bank asserted that such a requirement was unnecessary because: "in practice depositary banks obtain the issuer's consent before establishing an unsponsored ADR program." Deutsche Bank- one of the Depositary Banks that established an unsponsored ADR program for the sale of Volkswagen common shares as VWAGY in the U.S. - further explained:

In our experience, foreign issuers are often willing to allow a depositary bank to establish an unsponsored ADR program but are reluctant to memorialize this in

writing. We believe that, given the adequacy of the current environment of self-regulation, the protection provided issuers by the ability to affirmatively object to the establishment of an unsponsored ADR program and the benefit provided to U.S. investors by *unsponsored ADR programs, consent should be implied by a lack of affirmative objection by the issuer.*¹

66. Based on the foregoing it is likely that one or more of the Depositary Banks, consistent with their business practices and the custom in the industry, contacted Volkswagen before establishing the Volkswagen ADS program and before any Volkswagen shares were registered or sold in the United States. On the same information and belief, during those contacts the Depositary Banks: (i) provided Volkswagen with an opportunity to object to and prevent the establishment of such program; (ii) obtained a letter of non-objection or other evidence of consent from Volkswagen; and/or (iii) took other actions intended to obtain Volkswagen's consent to the sale of unsponsored ADSs in the United States or from which such consent could reasonably be implied.

67. Volkswagen either provided its affirmative consent to the sale of its Volkswagen common shares (766400) as ADSs in the United States or its consent may be implied under the circumstances.

68. Volkswagen ADSs would not have been offered for sale in the United States absent Volkswagen's affirmative or implied consent to the sale of unsponsored ADSs in the United States.

The OTC Market

¹ April 21, 2008 letter from Edwin Reyes, Managing Director Deutsche Bank Trust Company Americas, to Nancy M. Morris, Secretary SEC, available at: chrome-extension://efaidnbmnnibpcapcglclefindmkaj/https://www.sec.gov/comments/s7-04-08/s70408-19.pdf

69. VWAGY shares trade on the Pink market, which is part of the OTC Market. The OTC Market and the Pink market are both located in the United States. OTC Markets Group, which is based in New York City, operates both.

70. FINRA and the SEC regulate the OTC Market. Trades on the OTC Market are accomplished through the OTC Link Alternative Trading System (“ATS”) registered with the SEC (and regulated by both the SEC and FINRA). OTC Link ATS allows broker-dealers to quote any OTC equity security eligible for quoting under SEC Rule 15c2-11, 17 C.F.R. § 240.15c2-11. OTC Link ATS delivers trade messages electronically, allowing subscribers to execute, negotiate, or decline trade messages.

71. The SEC maintains a website containing lists of alternative trading systems, which states: “An ATS is a trading system that meets the definition of ‘exchange’ under federal securities laws but is not required to register as a national securities exchange . . . By rule, the SEC has exempted ATSs from the definition of “exchange” only for the purpose of relieving ATSs from the requirement to register as a national exchange subject to § 6 of the Exchange Act, 15 U.S.C. § 78f.

72. The OTC Link ATS permits subscribing broker-dealers to view and publish quotes and negotiate trades in Pink-listed securities, including VWAGY. OTC Link LLC, located in New York City is operated by OTC Link ATS. Broker-dealers access OTC Link ATS through OTC Dealer, which OTC Markets Group describes as a “high-performance, real-time, front-end application [that] provides a consolidated quotation, trading and information system to attract and access market liquidity.”

73. As of December 31, 2021, over 86 broker-dealers had subscribed to OTC Link. All of the broker-dealers listed in the OTC Market Group's online directory of broker dealers are located in the United States.

74. According to the company profile posted by Bloomberg, "OTC Link serves clients in the United States."

75. Trades on the OTC Market are arranged through the broker-dealers who have subscribed to OTC Link ATS. The broker-dealers may execute the trade internally or externally through market or limit offers posted on OTC Link ATS. Completed trades are reported, cleared and settled by the broker-dealers involved in the transaction. Trades on the OTC Market are deemed complete upon the delivery of funds by the buyer and delivery of securities by the seller.

76. Transactions in VWAGY were conducted via servers and facilities located within the United States.

77. ADRs are issued and shares of Volkswagen common stock (766400) required to support the sale of Volkswagen ADSs are maintained by depositaries located in New York, where transfers of interests in those securities are recorded.

78. As a result of the foregoing, purchasers and sellers of VWAGY incur irrevocable liability in the United States to complete transactions executed through the OTC Link ATS.

ALLEGATIONS OF MISCONDUCT

Background

79. Volkswagen designs, develops, manufactures, and sells automobiles and heavy trucks and provides related services such as vehicle financing and leasing. Volkswagen is the parent company of, among other brands, Audi AG, and Porsche AG and well as Bentley and Lamborghini.

Volkswagen Tries to Rebuild Its Reputation Following Dieselgate

80. In 2015 legal authorities in the United States charged Volkswagen with rigging its diesel-powered vehicles with defeat devices to cheat vehicle emissions test. The Company was forced to admit that it had fitted about 11 million vehicles worldwide with deceptive software that reduced nitrogen oxygen emissions when the cars were placed on a test machine, but allowed higher emissions and improved engine performance during normal driving. In 2017 the Company pleaded guilty to charges of fraud, conspiracy and selling goods under false pretenses. The “Dieselgate” scandal shattered Volkswagen’s reputation, cost the Company more than \$35 billion in fines and legal fees, and led to the recall of millions of vehicles.

81. In August 2020 Defendant Keough sat for an interview for an article on the five-year anniversary of the diesel emissions scandal. In the interview, Defendant Keough stated that Dieselgate- the costliest scandal in the history of the automotive industry- has transformed Volkswagen. Defendant Keough emphasized that given the Dieselgate scandal it was imperative that the Company win back consumer trust by “doing the right thing.” Keough stated, ““My point on this, and I’ve been clear on this from day one, we’re not going to win [customers] back with, you know, a token press release or a news article in *Automotive News*. What’s going to win them back is exactly what we’ve been doing; it’s sort of like a relationship, day in and day out, ***proving to [customers] that we’re a good company, that we’re doing the right thing, and proving them that we’re going to continue doing that.***”² Defendant Keough further stated ““...you need to be a well-liked and ***well-trusted*** brand.””³

Volkswagen’s Electric Vehicles

² All emphasis is added unless otherwise stated.

³ Larry Vellequette, “Why VW went all-in on ‘Voltswagen’ ruse: Top management decided that the risk of misleading reporters and the public – again – was worth the potential reward,” *Automotive News*, April 5, 2021.

82. It is against the backdrop of Dieselgate that Volkswagen sought to position itself as a leader in manufacturing and marketing electric vehicles.

83. In 2021 numerous automakers pledged their commitment to electric vehicles. For example, in January 2021, General Motors announced it would stop making gasoline-powered passenger cars, vans and SUVs by 2035. In February 2021, Jaguar announced that it would go “all electric” by 2025. Indeed, Dan Ives, managing director of equity research at Wedbush Securities wrote, in a February 2021 research note that, “A golden age of EV is on the horizon.⁴”

84. Additionally, in January 2021 the Biden administration signed an executive order which included plans to make the nation’s federal vehicle fleet all electric and install hundreds of thousands of charging stations across the country.⁵

85. In a December 2020 interview with the *Associated Press* Defendant Keough discussed the Company’s efforts to rebuild trust following Dieselgate and plans for clean electric vehicles. He discussed the Company’s plans to spend \$88 billion globally to develop battery vehicles through 2025 with the ID.4 electric SUV and two more products, stating “we’re not going to get where we need to without having a portfolio of electric vehicles.⁶”

86. In a “Letter to Shareholders” contained in the Company’s 2020 Annual Report, Volkswagen CEO Herbert Diess wrote “We find ourselves in a new playing field- up against companies that are entering the mobility market from the world of technology...Stock market players still regard Volkswagen Group as part of the ‘old auto’ world. By focusing consistently on software and efficiency, we are working to change this view. The world’s most valuable company

⁴Taylor Telford, “VW Confirms It’s Going All in On Electric, Starting With New U.S. Name: Volkswagen,” *Washington Post*, March 30, 2021.

⁵ *Id.*

⁶ Tom Krisher, “Insider Q&A: Volkswagen of America CEO Scott Keough,” *Associated Press*, Dec. 27, 2020.

will become a mobility company once more- and Volkswagen enjoys one of the best starting positions in the ‘new auto’ competition.”⁷

87. Diess made clear that Volkswagen would focus on electric vehicles, writing: “our focus on sustainable action will strengthen the Group’s resilience. By 2050 at the latest, our Group will achieve net carbon neutrality worldwide- from supply chains to our plants and divisions up to the use of the vehicles by our customers. We have made substantial progress during the pandemic. This means one thing in particular- bringing out more electric vehicles...When production of the ID.4 begins in the United States in 2022, the electric SUV will live up to its claim of being the electric ‘world car.’” Indeed, VW’s 2020 Annual report contains a full page bearing in large bold letters Diess quoted as stating “***Data and electricity are driving us now.***⁸”

88. The 2020 Annual Report detailed the Company’s electric vehicle offerings, emphasizing that EV’s were now a “core business:” “With 56,000 units delivered, the Volkswagen ID.3 was the Group’s most successful electric vehicle in 2020, followed by the Audi e-tron and the Porsche Taycan. We intend to invest around €35 billion in e-mobility over the next five years, plus another €11 billion in the hybridization of our model portfolio, five years ago we gave the green light for e-mobility in the Group through the decision to develop the Modular Electric Drive Toolkit (MEB). ***Now this is a core business.***⁹”

89. Indeed, in 2020 Volkswagen launched the ID.3, a passenger car and the first model based on Volkswagen’s MEB. Volkswagen stated, “this efficient and fully-connected all-electric

⁷ Volkswagen Group AG 2020 Annual Report, March 16, 2021, p. 7.

⁸ Volkswagen Group 2020 Annual Report, p. 8.

⁹ *Id.* at p. 9.

car represents a milestone on the path towards zero-emission mobility for a broad customer base.”¹⁰

90. However, the Company had to postpone the launch of the ID.3 twice because of persistent problems with the vehicle’s software. The ID.3 was supposed to be available to consumers in the summer of 2020, but because of the delays Volkswagen did not launch the ID.3 until the end of the year. Only 8.8% of Volkswagen’s total sales of the ID.3 were sales in North America.¹¹

Volkswagen Makes “Overtaking” Tesla a Strategic Priority

91. In September 2020 Volkswagen previewed the ID.4, the Company’s all-electric SUV. Despite what the *Wall Street Journal* described as VW’s “problem-ridden electric vehicle strategy” (referring to the ID.3 software glitches and delayed launch) Volkswagen was determined to challenge Tesla, the EV market leader. According to the *Wall Street Journal* “Volkswagen remains years behind its U.S. rival in developing and selling a mass market electric car. Even as it slowly catches up, Tesla has stayed one step ahead, launching better-performing vehicles and even building a new factory near the German capital, in Volkswagen’s backyard.”¹² According to the *DailyMail*, in 2020 Tesla sold 82% of electric vehicles in the U.S.

92. Addressing its ability to compete with Tesla, Defendant Keough asked rhetorically, “Do we have the exact range of Tesla? No, but we have a better price point.”¹³ Defendant Keough stated that the ID.4 is \$7,000 cheaper than Tesla’s Model Y. Defendant Keough also addressed

¹⁰ *Id.* at p. 26.

¹¹ *Id.* at p. 27.

¹² William Boston, “Volkswagen Takes Aim at Tesla with Electric ID.4 SUV,” *Wall Street Journal*, Sept. 23, 2020.

¹³ *Id.*

Volkswagen's efforts to make a comeback following Dieselgate in launching a line of EVs stating, "the way you catch on in culture is you launch a great product and it catches fire."

93. On March 15, 2021, two weeks before the planned U.S. launch of the ID.4, Volkswagen held what it termed "Power Day," emulating Tesla's "Battery Day," in which Volkswagen laid out its aggressive strategy to compete with and "overtake" Tesla. During a livestream "Power Day" presentation Volkswagen described its plans to expand its battery production and make major investments in charging infrastructure, which included building six battery production plants in Europe by 2020. Volkswagen CEO Herbert Diess stated "'E-mobility has become core business for us. We are now systematically integrating additional stages in the value chain. We secure a long-term pole position in the race for the best battery and best customer experience in the age of zero-emission mobility."¹⁴

94. Analysts, investors, and the press paid close attention to Volkswagen's aggressive strategy to "counter" Tesla. *The New York Times* reported, "Volkswagen is going all in on electric cars...That was the message Monday as the German carmaker staged a so-called Power Day to showcase its latest electric car technology. The event was Volkswagen's answer to Tesla's Battery Day presentation, which drew intense attention from investors and electric car buffs."¹⁵

95. It was also clear that Volkswagen was closely tracking Tesla CEO Elon Musk's strategies and behavior and consciously chose to have CEO Diess attempt to mirror Musk's actions. According to *Bloomberg News*, "Volkswagen AG has swiftly gone from corporate dinosaur to stock market darling, and its chief executive officer's imitation of Elon Musk has a lot

¹⁴ "VW lays out aggressive strategy to counter Tesla with its own 'gigafactories' and investments in charging infrastructure," *Business Insider*, March 15, 2021.

¹⁵ Jack Ewing, "Volkswagen Aims to Use its Size to Head Off Tesla," *New York Times*, March 15, 2021.

to do with it. Herbert Diess has taken a page out of the Tesla CEO's script for captivating investors big and small, taking a hands-on role in getting VW's message out on social media and staging splashy events big on ambition.”¹⁶

96. Like Elon Musk, Herbert Diess used a Twitter account to post enthusiastic messages promoting Volkswagen's EV plans. Following “Power Day,” Diess wrote on Twitter: “E-Mobility has won the race! Therefore battery and charging has become core business of @VWGroup. On our #VWPower Day we presented our roadmap till 2030: Volkswagen-newsroom.com-en/press-release.

97. But according to *Sky News* business reporter Jamie Sillars, Volkswagen officials have expressed frustration that its EV efforts have attracted less media and public attention than Tesla.¹⁷

98. For all their successes and social media prowess, regulators have fined Tesla and Musk in connection with recklessly issuing false statements on social media and deceiving investors. In 2018 Elon Musk posted on Twitter that he had secured funding to take Tesla private for the price of \$420 per share. This inaccurate statement drove up the price of Tesla stock and led Musk and Tesla to pay \$20 million in penalties each to the SEC. In a private securities class action against Musk pending in the Northern District of California the court recently granted summary judgment in favor of investors' Exchange Act claims against Musk based on the 2018 Tweet.¹⁸

99. Following VW's “Power Day” CEO Diess appeared on CNBC to discuss the auto sector's shift to focus on EV production and Volkswagen's competition with Tesla. First, Diess

¹⁶Christoph Rauwald, “VW CEO's Embrace of Elon Musk's Playbook Sends Stock Soaring,” *Bloomberg News*, March 17, 2021.

¹⁷Jamie Sillars, “VW ‘sorry’ for early April Fool's Day Volkswagen PR stunt,” *Sky News*, March 31, 2021.

¹⁸*In re Tesla Inc. Securities Litigation*, 3:18-cv-04865-EMC (Dkt. No. 387), April 1, 2022

emphasized that over the next 15 years electric cars would “take the lead,” predicting that cars would be autonomous. Diess declared “***to manage this change is probably the most important task we are facing***...and we think we are on the way, we are making good progress.” Second, Diess emphasized that long-term customer trust was key to VW successfully competing in the EV industry, stating, “[] You need life cycles, you need product you need plant capacities, you need market, ***you need to earn the trust of the customer.***” Third, Diess emphasized that VW was determined to compete with Tesla, stating, “...There are a few startups which we are watching closely and Tesla for sure is...in the lead in some aspects there. ***But we are not so far behind and we are gaining momentum.***” When asked whether Volkswagen would consider partnering with Tesla Diess replied, “No, we haven’t considered [that], we are going our own way. ***We want to get close and then overtake...And also, I think Tesla, or Elon, is very much thinking...[about] his way forward.*** So no, there are no talks between Elon Musk and myself regarding joining forces.”¹⁹

100. Analysts and investors heeded Volkswagen’s efforts to emulate Tesla, noting that its success in the EV industry would depend on piquing the interest of investors and consumers via a multi-front marketing campaign that included use of social media. A *Financial Times* article published shortly after VW’s Battery Day, entitled “*Volkswagen is the New Tesla*,” stated:

The German carmaker has long planned to be the dominant force in the budding electric vehicle space, last year promising to spend €35bn on its EV platform, with the aim of releasing 70 pure play battery-powered cars by 2030.

Yet, for some reason, the market didn’t care. While Tesla’s valuation ballooned to over \$800bn in January 2021 on the mere promise of EV domination, Volkswagen commanded a measly price tag of just under \$100bn. The narrative was clear: the OEMs were already dead, they just didn’t know it.

¹⁹ Chris Bryant, “Elon Musk Has a Serious Rival, the TechnoKaiser,” *Bloomberg*, March 17, 2021.

Well, not quite. *Because Diess had been quietly launching his own meta-game versus Tesla. In September 2020, he hosted Tesla's Techno king for test drive of its latest vehicle, the ID.3, while Elon was visiting Germany. Three months later, he launched a Twitter account which, absent the Dogecoin pumping, had a Musky whiff in its gratuitous use of technobabble and concept car imagery.*

It was a hint at what was to come. On Monday Volkswagen hosted its battery-focused Power Day and, surprise, surprise, the old dog seems to have learned a few new tricks. Six, yes six, giga factories were promised. *The presentation deck was laden with neon, electrified imagery.* And it featured the sort of axis-lite charts that FT Alphaville had enjoyed so much from the Californian company in the past:

...It was just the opening salvo, Tuesday bough VW's Analyst and Investor Day, and further big numbers. Diess said that VW would deliver 1m electric and hybrid vehicles in 2021, almost a five-fold increase from 2020.²⁰

101. In an article entitled “The End of Tesla’s Dominance May Be Closer than it Appears” Bloomberg described VW’s attempts to model itself after Tesla:

He doesn’t date a synth-pop star, publicly puff on blunts, or profess to want to die on Mars, *but Herbert Diess is starting to look and sound an awful lot like Elon Musk.*

The chief executive officer of Volkswagen AG kicked off a March 15 news conference modeled after Tesla Inc.’s ‘Battery Day- Diess called his ‘Power Day’- by declaring that there’s only one was to quickly reduce emission from transportation: Go electric. Skeptics could be forgiven for raising their eyebrows that that message, coming as it was from the same carmaker that spent years gaslighting the world about ‘clean diesel.’ But VW is finally seeing the payoff from its five-year effort to create a standardized platform to underpin dozens of electric models. ‘many in the industry questioned our approach,’ Diess said during the two-hour infomercial he led from VW’s headquarters in the German city of Wolfsburg, ‘today they are following suit, while we are reaping the fruit.’

VW last year became the No. 1 electric-vehicle maker in Europe, where sales of battery-powered cars surged thanks to stricter carbon dioxide limits, after the introduction of the ID.3 hatchback in 2020, the ID.4 crossover-the first global model based on VW’s electric platform-is starting to reach showrooms from Shanghai to Chicago. This year, VW plans to deliver 1 million plug-in hybrid and fully electric vehicles, and Diess aims to surpass Tesla in EV sales no later than 2025. Some analysts predict it will happen much sooner.²¹

²⁰ Jamie Powell, “Volkswagen is the new Tesla,” *FT Alphaville*, March 17, 2021.

²¹ Craig Trudell, “The End of Tesla’s Dominance May Be Closer Than it Appears,” *Bloomberg*, March 24, 2012.

102. Volkswagen was of course not the only company vying to compete with Tesla. As *Bloomberg* pointed out following Volkswagen's Battery Day, "EV's are shifting from what seemed like a one-man show to an extravaganza with an increasing crowded stage." In January 2021 General Motors CEO, Mary Barra, told investors that she wanted to "phase out" gas and diesel cars by 2035, causing General Motors stock price to increase.

103. In a bold move, on January 8, 2021, General Motors announced that it was changing its corporate logo in connection with a new marketing strategy focusing on electric vehicles. The new logo featured the automaker's "gm" initials in lowercase letters with the "m" underlined as a reference to its Ultium battery cell platform. The new logo also featured a change in the shape and color of the logo. This was the first time in 50 years that General Motors had changed its logo. Accompanying the new logo was a new "everyone in" tagline and advertising campaign focused on EVs. General Motors' chief marketing officer Deborah Wahl stated that the new EV advertising campaign would be "very significant" but declined to say how much money the company spent on redesigning the new logo and employing new messaging.²²

104. VW would have to make itself stand out to entice U.S. consumers to purchase its electric vehicles. As a reporter for the *New York Times* stated, "Volkswagen needs to make a splash if it wants to sell a lot of electric cars in the United States. Tesla dominated the market for now, while Ford Motor has gained ground with the Mustang Mach-E electric S.U.V. that has been delivered to several thousand drivers.²³"

²²Michael Wayland, "General Motors redesigns corporate logo as it focuses on electric vehicles," *CNBC Evolve*, Jan. 8, 2021.

²³Neal E. Boudette, "No, Volkswagen is not renaming itself Voltswagen," *New York Times*, March 31, 2021.

105. On March 16, 2021 VWoA issued a press release announcing the U.S. arrival of the ID.4, the Company’s electric SUV. The press release stated “this month marks a major milestone in Volkswagen’s story: the arrival of the ID.4, the company’s first long-range electric SUV in dealers across America. Just as electric vehicles will transform the way we drive, Volkswagen has refreshed the way it sells vehicles to embrace a more sustainable future...‘The launch of the ID.4 represents a huge inflection point for the Volkswagen Brand, and its foray into becoming a major player in the electric vehicle space’, said Tyler Olson, EV sales strategy and dealer development head for Volkswagen of America. ‘The ID.4 is the right car at the right time and is being sold by a dealer network that has really embraced the shift to electrification.’”

Volkswagen Deceives Investors Garnering Millions in Free Publicity and Artificially Inflating the Price of Volkswagen Stock

106. Approximately two weeks after announcing the U.S. launch of the ID.4, on March 29, 2021, VWoA published on its website a “draft” press release announcing that it was changing its name to “Voltswagen.” The “draft” press release contained the incorrect date of April 29. Even though the press release remained on the Company’s website for a brief time (approximately one hour) before the Company took it down, many of the top news agencies in the U.S. published reports on the name change, including the *Associated Press*, *USA Today*, *CNBC* and the *Washington Post*. Additionally, these news agencies reported that they had confirmed with Company insiders that, despite the incorrect date on the press release and despite the Company having removed the press release, the name change was in fact real.

107. In addition, on March 29, 2021 many high-profile journalists, including *Ad Age* news editor E.J. Schultz, received an email with a link to Volkswagen's March 29 draft press release from an anonymous Gmail account.²⁴

108. CNBC was the first to report on the Company's name change. At approximately 1:45 PM on March 29, 2021 CNBC published an article entitled "VW accidentally leaks new name for its U.S. operations: Voltswagen." The article stated, in pertinent part:

Volkswagen accidentally posted a press release on its website a month early on Monday announcing a new name for its U.S. operations, Voltswagen of America, emphasizing the German automaker's electric vehicle efforts.

* * *

A person familiar with the company's plans confirmed the authenticity of the release to CNBC. They asked to remain anonymous because the plans were not meant to be public yet.

The release said the name change is expected to take effect in May and called the change ***a "public declaration of the company's future-forward investment in e-mobility."*** It said Voltswagen will be placed as an exterior badge on all EV models with gas vehicles having the company's iconic VW emblem only.

To "preserve elements of Volkswagen's heritage," the release said the company planned to retain the dark blue color of the VW logo for gas-powered vehicles and ***use light blue to differentiate "the new, EV-centric branding."*** The release said Voltswagen of America would remain an operating unit of Volkswagen Group of America and a subsidiary of Volkswagen AG, with headquarters in Herndon, Virginia.

* * *

The VW press release was incomplete, citing the need for an additional quote and photography from the automaker's plant in Chattanooga, Tennessee.

A name change would be the latest EV news from Volkswagen, which earlier this month held a "Power Day" to discuss its EV technologies. It also announced goals

²⁴ Larry Velequette, "Why VW went all-in on 'Voltswagen' ruse: Top management decided that the risk of misleading reporters and the public – again – was worth the potential reward," *Automotive News*, April 5, 2021, available at: <https://www.autonews.com/marketing/why-vw-went-all-voltswagen-ruse>.

of significantly increasing sales of EVs through the end of the decade. It expects more than 70% of its Volkswagen brand's European sales will be EVs by 2030, up from a previous target of 35%. In the U.S. and China, it expects half of its sales to be EVs by that time frame.

109. Volkswagen's "accidental" draft press release provided the Company with an enormous amount of free publicity. News sources reported not just on the name change itself but elaborated on the Company's EV plans. Within hours of the Company's publication of the March 29 draft press release multiple news sources issued detailed articles on the name change. *USA Today* reported, in pertinent part:

Volkswagen's American division appears poised to change its name to "Voltswagen," switching the "k" to a "t" in a nod toward the automaker's investment in electric vehicles.

The German automaker's announcement on the change appeared briefly on its media site Monday before it was removed, having apparently been released before it was ready for an official rollout.

* * *

But VW was not hacked, the announcement is not a joke, it's not a marketing ploy and the plan is for the change to be made permanent, *said a person familiar with the company's plans* on condition of anonymity because they were not authorized to speak publicly.

The news release, which was dated April 29 when it was accidentally posted, *was published March 29 before it was ready to be distributed, the person said. A USA TODAY reporter noticed the announcement on VW's website and saved it before it was removed.*

In the errantly published news release, the automaker said that "more than a name change, 'Voltswagen' is a public declaration of the company's future-forward investment in e-mobility."

"The new name and branding symbolize the highly-charged forward momentum Volkswagen has put in motion, pursuing a goal of moving all people point-to-point with EVs," the automaker said in the release.

According to the announcement, electric models would get an exterior badge with the name "Voltswagen," while gas-powered vehicles will have the standard "VW"

badge. It was not immediately clear Monday whether any details of the plan are still subject to change.

The move would signal a significant pivot for the world's second-largest automaker, whose U.S. division dates to 1955. It would also come after several competitors, including General Motors and Volvo, recently announced plans to eventually phase out gas vehicles.

“We might be changing out our K for a T, but what we aren’t changing is this brand’s commitment to making best-in-class vehicles for drivers and people everywhere,” *VW of America CEO Scott Keogh said in the news release.*

The change would also further distance VW from the diesel emissions scandal that sullied its reputation, harmed the environment, hurt public health and led to penalties of more than \$30 billion as well as criminal charges.

The announcement would also coincide with the arrival of the brand-new Volkswagen ID.4, the automaker’s first long-range electric SUV sold in the U.S. It’s part of a new lineup of electric cars under the ID sub-brand, including the forthcoming revival of the VW microbus.

The company plans to launch more than 70 electric vehicles worldwide by 2029 and sell 1 million by 2025. VW and its related brands, including Audi and Porsche, sold more than 9 million vehicles of all kinds globally in 2020, making it a close second to Toyota, though it previously held the No. 1 title for several years.²⁵

110. *Barron’s*, a leading source of financial news, reported on the significance of the name change. In a March 29, 2021 article entitled “Volkswagen Will Become Voltswagen in the U.S. Why That’s a Big Deal,” *Barron’s.com* reporter Al Root wrote: “Voltswagen. That’s the name the German auto maker Volkswagen is taking in the U.S. *The change is little – a ‘k’ for a ‘t.’ But it shows just how big the company’s electric vehicle ambitions are...Volkswagen has always had some of the most aggressive EV goals of any traditional automaker.* Today, the company is targeting about 50% of total sales by 2030 to come from all-electric vehicles—up from its prior goal [of] about 25% set a while back. The goal is a big [sic] for the industry since

²⁵ “Volkswagen says it plans name change, later pulls back, reports say[,]” *USA Today*, March 29, 2021.

Volkswagen is the world's largest car maker, measured by unit volume, to reach its goal, Volkswagen would have to sell 5 million to 6 million all-electric vehicles in 2030- about 10 times the number sold by EV pioneer Tesla in 2020." The article concluded: "***Now maybe it's easier to understand how changing one little letter can create such a big to-do.***"

111. Volkswagen's March 29 press release, which coincided with the Company's release of the ID.4 electric SUV, also provided the Company with publicity for its launch of the ID.4. A few hours after VW published the March 29 press release the AP reported:

Volkswagen plans to change its brand name in the United States to 'Voltswagen' as its shifts its production increasingly toward electric vehicles and tries to distance itself from an emissions cheating scandal. A person briefed on the plan said a formal announcement is planned for Tuesday. The person didn't want to be identified because the plans had not been made public. The company had briefly posted a press release on its website early Monday announcing the brand name change. The press release was noticed by a reporter from USA Today before it was removed. The release was dated April 29. ***The premature release comes as VW is taking reservations for the new ID.4 small electric SUV in the U.S. It's the company's only new electric model sold in the United States, though there are plans for more, including a nostalgic reprise of the company's Microbus.***²⁶

112. Because the Company took down the March 29 press release shortly after publishing it, the *Associated Press* wanted to be sure that VWoA was indeed changing its name before reporting it as a fact. According to *Associated Press* spokesperson Lauren Easton, Defendant Mark Gillies personally assured the *Associated Press* that VWoA was indeed changing its name to Voltswagen. Prior to publishing the above report, AP spokesperson Lauren Easton confirmed that "the *Associated Press* was ***repeatedly assured*** by Volkswagen that its U.S. subsidiary planned a name change."²⁷

²⁶ Tom Krisher, *Associated Press* March 29, 2021.

²⁷ David Bauder, "An Unwelcome prank: Volkswagen purposely hoodwinks reporters," *Associated Press*, March 31, 2021.

113. The next day, March 30, 2021, VWoA republished the press release entitled “*Voltswagen: a new name for a new era of e-mobility*” announcing the Company’s name change to “*Voltswagen*.” The press release contained the correct date of March 30, 2021. The press release quoted VWoA CEO Defendant Keough, celebrating the Company’s new name as a “public declaration” of the Company’s investment and commitment to EVs. The press release contained an image of the Company’s new logo and clearly articulated the reasoning and timing of the new change. The March 30 press release stated:

- **U.S. name change from Volkswagen of America to Voltswagen of America begins May 2021**
- **Rebranding to include revised name, brand guidelines and VW.com design**

Herndon, VA, March 30, 2021 - V.2 —*Today, Volkswagen Group of America, is unveiling the official change of its U.S. brand name from Volkswagen of America to Voltswagen of America.*

*More than a name change, “*Voltswagen*” is a public declaration of the company’s future-forward investment in e-mobility.* By definition, Volts are the derived units for electric potential between two points. The new name and branding symbolize the highly-charged forward momentum Voltswagen has put in motion, pursuing a goal of moving all people point-to-point with EVs.

“We might be changing out our K for a T, but what we aren’t changing is this brand’s commitment to making best-in-class vehicles for drivers and people everywhere,” said Scott Keogh, president and CEO of Voltswagen of America. “The idea of a ‘people’s car’ is the very fabric of our being. We have said, from the beginning of our shift to an electric future, that we will build EVs for the millions, not just millionaires. This name change signifies a nod to our past as the peoples’ car and our firm belief that our future is in being the peoples’ electric car.”

This month, the company welcomes the arrival of ID.4, its first long-range all-electric, zero direct emission SUV, in dealerships across America. As well as being designed to compete with mainstream compact SUVs, the ID.4 is the first product to be sold nationwide that confirms the company’s commitment to sustainable mobility.

That’s been the mission since the larger Volkswagen Group became the first major automaker to support the goals of the Paris Climate Agreement, with an added target of a 30 percent reduction in the company’s carbon footprint by 2025, and net-

carbon neutrality by 2050. A resulting commitment to sell one million EVs worldwide by 2025 will see more than 70 electric models launched across the VW group brands by 2029.

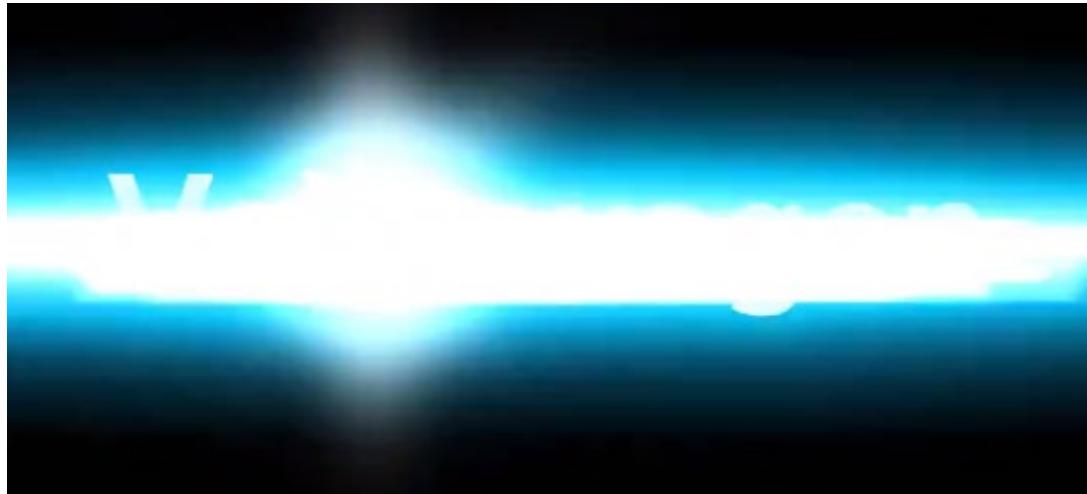
With the introduction of the “Drive Bigger” brand platform in 2019, Volkswagen of America, as it was then, communicated a long-term vision of striving for a higher purpose, challenging us all to move beyond self-interest and to consider being part of something bigger. The company further signaled its intentions by becoming one of five brands that signed up in 2019 to California’s proposed fuel economy regulations, which aim to impose stricter CO2 standards in an effort to help combat climate change.

Voltswagen means thinking big, acting boldly and leading progress. In 1955 Volkswagen of America was founded, and from the beginning the company dared to be different from other automakers. VW first won the love of the American public with the Type 1 Beetle, which eventually overtook the Ford Model T as the world’s best-selling car, with more than 23 million sold. By establishing a storied legacy of breaking from convention and emphasizing a true driver-vehicle connection, Volkswagen of America in its time has become synonymous with humility, wit and humor, while the actual namesake translates to “the people’s car.”

“As our newly launched ID.4 campaign demonstrates, the humanity at the core of this brand remains its enduring legacy,” said Kimberley Gardiner, senior vice president, Voltswagen of America brand marketing. “The tone of Voltswagen will be a consistent thread between the branded communications for our growing electric fleet to our gas vehicles. Over the course of the next few months, you will see the brand transition at all consumer touch points. This is an exciting moment for us, and we have been working through every avenue to make the transition clear, consistent, seamless and fun for all.”

The company will preserve elements of Volkswagen’s heritage by retaining its iconic VW Dark Blue color for gas-powered vehicles and Light Blue to differentiate the new, EV-centric branding. Starting today, new branding will roll out across all of the company’s advertising, website and social media channels. Moving forward, “Voltswagen” will be placed as an exterior badge on all EV models with gas vehicles sporting the VW emblem only. Exterior and interior signage will soon roll out to all Voltswagen properties and dealerships across the US.

114. Also on March 30, 2021 Volkswagen posted on Twitter: “*We know, 66 is an unusual age to change your name*, but we’ve always been young at heart. **Introducing Volkswagen**. Similar to Volkswagen, but **with a renewed focus on electric driving**. Starting with our all-new, all-electric SUV the ID.4 - available today. #**Voltswagen** #ID4.” The tweet included a video showing the “k” in Volkswagen changing to a “t.”²⁸



²⁸<https://twitter.com/VW/status/1376868756782219266>;
<https://web.archive.org/web/20210330121247/https://twitter.com/VW/status/1376868756782219266>.

115. VWoA's official publication of the above press release containing quotes from Defendant Keough reassured investors, journalists and analysts who may have previously had doubts as to whether the Company was in fact making the name change that it indeed was.

116. When reporters questioned Defendants as to whether the name change was an April Fools' joke they confirmed that it was not. As *The Guardian* reported, "***With the cat out of the bag, VW was forced to admit the story was true.*** It hastily put together a new statement that appeared on its website on Tuesday. It said the name Volkswagen would start appearing in company branding immediately, and that an emblem bearing the name would appear on all its electric vehicles. Its range of petrol cars will sport only a VW badge.²⁹

117. Journalists even began referring to VWoA by its new name. In an article announcing the official news of the name change and rebranding, *Washington Post* reported "The transition will take place over the next few months 'at all consumer touchpoints' said Kimberley Gardiner, senior vice president of brand marketing for ***Volkswagen of America***, in a statement. 'This is an exciting moment for us, and we have been working through every avenue to make the transition clear, consistent, seamless and fun for all.'"³⁰

118. Wall Street analysts also lauded the name change and released guidance about its implications. Immediately following the March 30 press release Wedbush Securities analyst Dan Ives published a bullish research note stating that the name change shows that the Company "is not playing around." Ives stated: "***We believe the name change underscores VW's clear***

²⁹ Richard Luscombe, "No joke: Volkswagen confirms it will change name to Volkswagen in US," *The Guardian*, March 30, 2021.

³⁰ Taylor Telford, "VW Confirms It's Going All in On Electric, Starting With New U.S. Name: Volkswagen," *Washington Post*, March 30, 2021.

commitment to its EV brand and massive EV endeavors over the coming years.” In the research note Ives went on to detail the market opportunity for EV’s in the U.S., Europe and China. Given the name change and VW’s corresponding commitment to focus on EV’s Ives predicted that Apple would choose VW as its EV partner for the Apple Car.

119. Even board members at rival companies reacted positively to Defendants’ press release. Hiro Mizuno, a member of Tesla’s board of directors posted on Twitter: “*VW is changing their name to show their commitment to electric. This is more than changing corporate logo, e.g., GM. They are absolutely serious.*”

120. Defendants’ March 29 draft press release and March 30 press release caused a dramatic increase in the price of the Company’s ADSs. Between the time CNBC reported on the March 29 draft press release and Defendants’ retraction of the March 30 press release the price of Volkswagen ADSs increased over 10%.

Defendants Admit their Deception; Journalists, Analysts and the Public React to Defendants’ False Statements with Shock and Disgust.

121. The March 30 press release remained on the Company’s website until late in the day on March 30, 2021. The Company took down the press release after the close of trading on March 30. Also after the close of trading on March 30 the *Wall Street Journal* published a “WSJ News Exclusive” entitled “No, Volkswagen Isn’t Rebranding Itself Voltswagen: German car maker says announcement by its U.S. operation was supposed to be an April Fools’ gag[.]” The *Wall Street Journal* article revealed to investors that VWoA’s purported name change was a hoax. When the *Wall Street Journal* contacted a Company official in Germany, he stated “there will be no name change.”³¹

³¹ William Boston, “No, Volkswagen Isn’t Rebranding Itself Voltswagen,” *Wall Street Journal*, March 31, 2021 (7:45 pm ET).

122. The *Wall Street Journal* article noted that the Company's elaborate and believable actions and statements misled investors and the public and prompted respected journalists to disseminate false information: “*The problem for VW is that everyone took it seriously, creating confusion about the company's intentions and moving the shares...[the Company] left the [March 29 draft press release] online long enough to grab the attention of journalists and VW fans, sparking a flood of online news and tweets. VW's U.S. unit published the release in full again on Tuesday on the U.S. website, a move that suggested that the name change was in fact real and would take effect as stated in the release in May.*”³²

123. On March 31, 2021, the fallout continued, with journalists and stock market commentators publishing reports regarding how the Company and Defendants Keough and Gillies purposefully misled the public. For example, an *ABC News* article cited reactions from several of the many respected journalists who were outraged upon learning Defendants intentionally lied to them. The article stated:

Volkswagen admitted Tuesday that it had put out a false news release saying that it had changed the name of its U.S. subsidiary to “Voltswagen of America” in an attempt to be funny and promote a new electric utility vehicle. Several news organizations, including The Associated Press, USA Today, CNBC and The Washington Post, had reported the original press release as real news, some after being assured specifically that it was no joke.

* * *

“The Associated Press was repeatedly assured by Volkswagen that its U.S. subsidiary planned a name change, and reported that information, which we now know to be false,” company spokeswoman Lauren Easton said. “We have corrected our story and published a new one based on the company's admission. This and any deliberate release of false information hurts accurate journalism and the public good.”

The story emerged Monday after a news release was briefly posted on a company website and then disappeared, but not before catching some eyes. CNBC, which

³² *Id.*

declined comment on the hoax, is believed to be the first major news organization to report it as legitimate news.

The AP wrote a story about it Monday after its reporter was assured by Mark Gillies, a company spokesman in the United States, that it was serious, Easton said.

It was a similar story at USA Today, where a reporter specifically asked if it was a joke and was told “no,” said the newspaper’s spokeswoman, Chrissy Terrell.

“The company used this fake announcement as a way to manipulate respected reporters from trusted news outlets to get attention for their marketing campaign,” she said. **“We are disheartened that the company would choose this type of disingenuous marketing.”**

The USA Today reporter who was initially lied to was more blunt.

“This was not a joke,” reporter Nathan Bomey wrote on Twitter. “It was deception. In case you haven’t noticed, we have a misinformation problem in this country. Now you’re part of it. **Why should anyone trust you again?”**

At first on Tuesday, the company doubled down on its story by reissuing the news release, which quoted Scott Keogh, the president and CEO of Volkswagen of America. It even changed its Twitter page, announcing that “we know, 66 is an unusual age to change your name, but we’ve always been young at heart.”

* * *

Gillies, after presenting the false information the day before, came clean on Tuesday. The Journal quoted a spokesman for the company in Germany as saying, “we didn’t mean to mislead anyone. The whole thing is just a marketing action to get people talking” about its new car model.

The AP and other news organizations that falsely reported the news later wrote about the hoax. “About that plan to change Volkswagen of America’s name.” wrote USA Today’s Mike Snider. “Never mind.”³³

124. As *Business Insider* reported, “If there was any winking or nudging about Tuesday’s announcement, it was lost on the media and the public, which largely took it at face value. Wall Street took it seriously too, **and Volkswagen’s stock popped more than 10% on the news.** Investment firm Wedbush securities published a bullish note about the decision...”³⁴

³³ “An unwelcome prank: Volkswagen purposely hoodwinks reporters: Journalists are wary of looking out for pranksters around April Fool’s Day, but this time it came from a multi-billion dollar corporation[.]” *ABC News*, March 31, 2021.

³⁴ “Volkswagen’s rebrand to ‘Voltswagen’ was just an April Fools’ Day joke gone wrong,” *Business Insider*, March 31, 2021.

125. Automotive publication *Carscoops* stated that the Company confirmed to it that the name change was true, noting that this went far beyond the bounds of what could be considered a prank, and constituted deception: “While we’re used to automakers issuing their own well-intended pranks year by year, the deceptive statements of VW saw not only a confirmation of the initial ‘leak’ but that VW went so far as to email reporters of the name change in a since-deleted press release.”³⁵

126. Cornell Law School business law professor Charles Whitehead stated, “This is not the sort of thing that a responsible global company should be doing.” Whitehead noted that “there was nothing to indicate...that- nudge, nudge, wink, wink—this is really a joke, unlike other gags that have been out there.”³⁶

127. University of Michigan business professor Erik Gordon remarked that given Volkswagen’s history of lying, the use of deception was particularly dangerous: ““The use of deceit is really dangerous. If you’re Volkswagen, it’s doubly dangerous. Volkswagen is the last company that should be playing around with deceiving people, even if it’s for two days. It doesn’t play well when you have admitted guilt to having tricked us before.””³⁷

128. Numerous journalists noted that Defendants’ deception was that much more believable given that Defendants pledged to remain honest to regain the trust of investors and consumers following Dieselgate. *Automotive News* reporter Larry Vellequette stated that while Defendants succeeded in creating publicity for the new ID.4 their deception “contradicted years of

³⁵ “Volkswagen Hoax May Land VW into Trouble With U.S. Regulators for Distorting Stock Prices” *Carscoops*, March 31, 2021.

³⁶ Clare Duffy, “Volkswagen could end up in hot water over its ‘Volkswagen’ marketing stunt.” *CNN*, March 31, 2021.

³⁷ Nathan Bomey, “Volkswagen won’t be ‘Volkswagen’ after all: Misleading marketing is risky, especially for VW,” *USA TODAY*, Nathan Bomey March 31, 2021.

effort to restore the company's tattered public credibility following the diesel emissions crisis.” Velequette recounted how Defendant Gillies reassured journalists that the name change was not a joke and “doubled down on its deception a day later” with a press release that quoted Defendant Keough when “*it was, in fact, all a lie- propagated by the same company that pleaded guilty to felonies in 2017* for a long-running conspiracy of lying to regulators about how much pollution its ‘clean diesel’ vehicles were sending into the air...*the decision to proceed with the Volkswagen stunt ran counter to years of claims that the automaker’s history of intentional falsehoods was in the past.*”³⁸

129. One journalist echoed this stating “Volkswagen of America so straightforwardly represented the name change as real that it was reported by the Associated Press, the BBC and dozens of other outlets. Volkswagen is at the beginning of an \$86 billion push into electric vehicles because it wants to be known as *the* leader in the space — a strategic shift that, again, was inspired by the fact that the company was caught installing software on its vehicles that was meant to fool regulators into allowing dirty cars on the road...*But now we know the rebrand was nothing more than another lie from a company that’s become known for something else: lying.*”³⁹

130. The *Standard* described how “*Volkswagen of America issued false statements this week*...to stress its commitment to electric vehicles...Mark Gillies [...] confirmed Tuesday that the statement had been a pre-April Fool’s Day joke *after having insisted Monday that the release was legitimate* and the name change accurate. *The company’s false statement was distributed again Tuesday*, saying the brand-name change reflected a shift to more battery-electric vehicles.”

³⁸Larry Velequette, “Why VW went all-in on ‘Volkswagen’ ruse: Top management decided that the risk of misleading reporters and the public – again – was worth the potential reward,” *Automotive News*, April 5, 2021.

³⁹Sean O’Kane, “Volkswagen of America lied about rebranding to ‘Volkswagen’ – From the company that brought you Dieselgate,” *The Verge*, March 30, 2021.

131. According to the *Standard* “*Volkswagen’s intentionally fake news release, highly unusual for a major public company, coincides with its efforts to repair its image as it tries to recover from a 2015 scandal* in which it cheated on government emission tests and allowed diesel-powered vehicles to illegally pollute the air...*In falsely announcing a name change, the company went beyond telling reporters that its news release was legitimate. On Tuesday the company emailed reporters a press release that quoted its CEO announcing the fake change...*”⁴⁰

132. The *Standard* article further quoted Duke University corporate and securities law professor James Cox, who urged that the SEC take action to deal with such misinformation which distorts stock prices as stating ““The whole market has gone crazy. We need to throw a pretty clear line in the sand, I believe, about what is permissible and what isn’t.””

133. According to *Forbes*, “many marketing experts saw Volkswagen’s joke as a breach of trust at a time when companies have been striving to earn consumers’ confidence after a yearlong pandemic. And Volkswagen, just a few years removed from revelations that it had cheated U.S. diesel emissions test, is no exception. Mario Natarelli, managing partner at brand agency MBLM, says the Volkswagen brand is ‘too serious and the subject too important for them to be playing around...’”

134. Dan Ives, the Wedbush analyst who published a research report lauding the Company’s name change weighed in on Defendants’ deception: “From an industry, from an investor, from a media perspective [...] many got fooled, including ourselves. And I think it’s one

⁴⁰ “Volkswagen of America hoaxes media with false name, ‘Voltswagen,’ ” *The Standard*, March 31, 2021.

where it leaves a bit of a bad taste in the mouth... *Twenty-one years in the Street, this is definitely a first. And I think ultimately, it's going to potentially have some ramifications.*⁴¹

135. Former SEC chief economist Chester Spatt opined that the SEC would likely investigate the Company, stating that the false press releases were outside the bounds of what could be considered “April Fools” humor: because the Company issued the first press release days before April 1 reporters did not think it was a hoax. Spatt stated that the “full-fledged” nature of the false press release and Volkswagen’s status as a repeat offender in misleading the public weighed did not bode well for the Company.⁴²

Defendants Benefitted from the Fraud While Harming Investors

136. After the *Wall Street Journal* revealed the Company admitted that the March 29 draft press release, March 30 press release and the Individual Defendants’ statements assuring investors that VWoA was changing its name were false, Volkswagen ADSs representing common shares fell \$2.17 per ADS, or over 5%, from its closing price of \$37.75 on March 30 over the next two full trading days, to close at \$35.58 per share on April 1, 2021, damaging investors.

137. Despite the harm to investors, Defendants’ fraud provided the Company with the publicity it intended to achieve. *Forbes* reported that social media analytics company Sprinklr compiled data showing that “Voltswagen” was mentioned **6,045 times** on Twitter, Instagram, Facebook, Reddit and other news sites and blogs which reached **150 million people** as of the

⁴¹ “What A Shocker—‘Voltswagen’ Sparks Scorn With Stunt That Duped So Many, It Hertz,” *NPR, “All Things Considered,”* Amila Donomiske, March 31, 2021.

⁴² “Former SEC chief economist explains how agency will evaluate ‘Voltswagen’ stunt” *Yahoo Finance*, Alexis Keenan, April 29, 2021.

evening of April 1.⁴³ Juleanna Glover, CEO of corporate consulting firm Ridgely Walsh stated that the Company garnered millions of dollars in publicity from the press releases.

138. Indeed, Defendant Keough himself admitted: “*“the upside is, obviously, the social media response has been the biggest numbers we’ve ever seen.”*”⁴⁴

139. Defendants’ fraud enabled them to reap the benefits of the free publicity associated with changing Volkswagen’s brand name without having to assume the steep risks and costs of rebranding.

140. Advertising and marketing experts have long studied and documented the many risks of changing a product’s name. According to *Brandingmag*, an independent journal focused on branding, “a failed rebrand can be costly to a business in terms of money and reputation.” One risk of rebranding is that a loyal customer base of older customers that likes and trusts the existing brand will be confused by the new branding. It can also take time for customers to adjust to a brand’s new identity, resulting in a period of stagnating sales. Additionally, rebranding is not cheap. Among the costs entailed are legal costs, marketing and advertising costs, implementation costs and the costs of new branded materials.⁴⁵

141. For example, in 2008 Tropicana spent \$35 million to rebrand its orange juice packaging to “modernize” the brand. Despite the best intentions, the rebrand was a total failure. Tropicana lost \$20 million in sales in the first month alone.

⁴³ Marty Swant, “Volkswagen’s April Fools’ Stunt Misses The Mark- And An Opportunity To Earn Back Trust,” *Forbes.com*, April 1, 2021.

⁴⁴ Ben Foldy, “VW’s U.S. Boss Takes Responsibility for ‘Volkswagen’ Prank,” *WSJ*, April 1, 2021.

⁴⁵ Milosz Krasinski, “The Dangers of Rebranding- Why You Should Think Twice”, *Brandingmag*, July 2, 2020. Available at: <https://www.brandingmag.com/2020/07/07/the-dangers-of-rebranding-why-you-should-think-twice/>

142. As *The New York Times* stated, “Changing the name of an automaker as established as Volkswagen would clearly be a huge undertaking, and not just for the company. Its dealers would have to spend millions of dollars to rebrand their franchises.”⁴⁶

Post Class Period Events: the SEC Investigates the Company

143. On April 29, 2021 *Reuters* reported that the SEC had begun investigating VWoA concerning the Voltswagen hoax. German newspaper *der Spiegel* was the first to report the SEC investigation, stating that the investigation began in early April and that the Company had confirmed the investigation.

144. The SEC investigation did not come as a surprise. Law professors, stock market analysts and journalists opined that the SEC would commence an investigation given the effect of Defendants’ false statements and subsequent revelation of the fraud on the Company’s share price. Further, many noted the precedent for the SEC taking action against the Company given the similarities between Defendants’ misconduct and that of Tesla and Elon Musk: “This week’s Volkswagen incident bears some similarity to one in 2018 in which Tesla’s CEO Elon Musk tweeted that he had the funding secured to take the company private — a comment that drove up the stock price. [] Later, it was revealed that the funding had not been lined up. Musk and Tesla each agreed to pay US\$20 million in penalties to the SEC.”

DEFENDANTS’ FALSE AND MATERIALLY MISLEADING STATEMENTS

145. On March 29, 2021, VWoA published a “draft” of a press release announcing its purported name change to “Voltswagen” on its website. This “draft” had the incorrect date of “April 29.” The Company took down the press release from its website that same day. Prior to

⁴⁶ Neal E. Boudette, “No, Volkswagen is not renaming itself Voltswagen,” *New York Times*, March 31, 2020.

taking the press release off its website the Company sent an email containing a link to the press release to several-profile journalists from an anonymous Gmail account.

146. On March 29, 2021, in response to the “draft” press release, multiple news agencies reported that they confirmed with Company insiders that the name change was real. CNBC was the first to report on the March 29 Draft Press Release. CNBC confirmed the authenticity of the March 29 draft press release with a Company representative, who asked to remain anonymous purportedly because the Company did not yet intend the name change to be public.

147. The March 29 CNBC article entitled “VW accidentally leaks new name for its U.S. operations: “Voltswagen” reported, in pertinent part, that:

Volkswagen accidentally posted a press release on its website a month early on Monday announcing a new name for its U.S. operations, Voltswagen of America, emphasizing the German automaker’s electric vehicle efforts.

* * *

A person familiar with the company’s plans confirmed the authenticity of the release to CNBC. They asked to remain anonymous because the plans were not meant to be public yet.

The release said the name change is expected to take effect in May and called the change a “public declaration of the company’s future-forward investment in e-mobility.” It said Voltswagen will be placed as an exterior badge on all EV models with gas vehicles having the company’s iconic VW emblem only.

To “preserve elements of Volkswagen’s heritage,” the release said the company planned to retain the dark blue color of the VW logo for gas-powered vehicles and *use light blue to differentiate “the new, EV-centric branding.”*

The release said Voltswagen of America would remain an operating unit of Volkswagen Group of America and a subsidiary of Volkswagen AG, with headquarters in Herndon, Virginia.

* * *

The VW press release was incomplete, citing the need for an additional quote and photography from the automaker’s plant in Chattanooga, Tennessee.

A name change would be the latest EV news from Volkswagen, which earlier this month held a “Power Day” to discuss its EV technologies. It also announced goals of significantly increasing sales of EVs through the end of the decade. It expects more than 70% of its Volkswagen brand’s European sales will be EVs by 2030, up from a previous target of 35%. In the U.S. and China, it expects half of its sales to be EVs by that time frame.

148. These March 29 news reports on the purported name change also include a *USA Today* article, which was later updated and re-titled “Volkswagen says it plans name change, later pulls back, reports say[.]” reported, in pertinent part, the following:

Volkswagen’s American division appears poised to change its name to “Voltswagen,” switching the “k” to a “t” in a nod toward the automaker’s investment in electric vehicles.

The German automaker’s announcement on the change appeared briefly on its media site Monday before it was removed, having apparently been released before it was ready for an official rollout.

* * *

But *VW was not hacked, the announcement is not a joke*, it’s not a marketing ploy and the plan is for the change to be made permanent, *said a person familiar with the company’s plans* on condition of anonymity because they were not authorized to speak publicly.

The news release, which was dated April 29 when it was accidentally posted, *was published March 29 before it was ready to be distributed, the person said. A USA TODAY reporter noticed the announcement on VW’s website and saved it before it was removed.*

In the errantly published news release, the automaker said that “more than a name change, ‘Voltswagen’ is a public declaration of the company’s future-forward investment in e-mobility.”

“The new name and branding symbolize the highly-charged forward momentum Volkswagen has put in motion, pursuing a goal of moving all people point-to-point with EVs,” the automaker said in the release.

According to the announcement, electric models would get an exterior badge with the name “Voltswagen,” while gas-powered vehicles will have the standard “VW” badge. It was not immediately clear Monday whether any details of the plan are still subject to change.

The move would signal a significant pivot for the world’s second-largest automaker, whose U.S. division dates to 1955. It would also come after several competitors, including General Motors and Volvo, recently announced plans to eventually phase out gas vehicles.

"We might be changing out our K for a T, but what we aren't changing is this brand's commitment to making best-in-class vehicles for drivers and people everywhere," VW of America CEO Scott Keogh said in the news release.

The change would also further distance VW from the diesel emissions scandal that sullied its reputation, harmed the environment, hurt public health and led to penalties of more than \$30 billion as well as criminal charges.

The announcement would also coincide with the arrival of the brand-new Volkswagen ID.4, the automaker's first long-range electric SUV sold in the U.S. It's part of a new lineup of electric cars under the ID sub-brand, including the forthcoming revival of the VW microbus.

The company plans to launch more than 70 electric vehicles worldwide by 2029 and sell 1 million by 2025. VW and its related brands, including Audi and Porsche, sold more than 9 million vehicles of all kinds globally in 2020, making it a close second to Toyota, though it previously held the No. 1 title for several years.

149. The *Associated Press* was also among the dozens of news agencies that reported on the Company's name change. Because the Company took down the March 29 draft press release shortly after publishing it, the AP wanted to be sure that VWoA was indeed changing its name before reporting it as a fact. According to AP spokesperson Lauren Easton, Defendant Mark Gillies assured the AP that VWoA was in fact changing its name to Volkswagen. According to AP spokesperson Lauren Easton "the Associated Press was ***repeatedly assured*** by Volkswagen that its U.S. subsidiary planned a name change."⁴⁷

150. The next day, March 30, 2021, VWoA republished the press release entitled "Volkswagen: a new name for a new era of e-mobility" announcing the Company's name change to "Volkswagen." The press release contained the correct date of March 30, 2021. The press release quoted VWoA CEO Defendant Keough, celebrating the Company's new name as a "public declaration" of the Company's investment and commitment to EVs. The press release contained

⁴⁷ David Bauder, "An Unwelcome prank: Volkswagen purposely hoodwinks reporters," *Associated Press*, March 31, 2021.

an image of the Company's new logo and clearly articulated the reasoning and timing of the new change. The March 30 press release stated:

- **U.S. name change from Volkswagen of America to Voltswagen of America begins May 2021**
- **Rebranding to include revised name, brand guidelines and VW.com design**

Herndon, VA, March 30, 2021 - V.2 —*Today, Volkswagen Group of America, is unveiling the official change of its U.S. brand name from Volkswagen of America to Voltswagen of America.*

More than a name change, "Voltswagen" is a public declaration of the company's future-forward investment in e-mobility. By definition, Volts are the derived units for electric potential between two points. The new name and branding symbolize the highly-charged forward momentum Voltswagen has put in motion, pursuing a goal of moving all people point-to-point with EVs.

"We might be changing out our K for a T, but what we aren't changing is this brand's commitment to making best-in-class vehicles for drivers and people everywhere," said Scott Keogh, president and CEO of Voltswagen of America. "The idea of a 'people's car' is the very fabric of our being. *We have said, from the beginning of our shift to an electric future, that we will build EVs for the millions, not just millionaires. This name change signifies a nod to our past as the peoples' car and our firm belief that our future is in being the peoples' electric car.*"

This month, the company welcomes the arrival of ID.4, its first long-range all-electric, zero direct emission SUV, in dealerships across America. As well as being designed to compete with mainstream compact SUVs, the ID.4 is the first product to be sold nationwide that confirms the company's commitment to sustainable mobility.

That's been the mission since the larger Volkswagen Group became the first major automaker to support the goals of the Paris Climate Agreement, with an added target of a 30 percent reduction in the company's carbon footprint by 2025, and net-carbon neutrality by 2050. A resulting commitment to sell one million EVs worldwide by 2025 will see more than 70 electric models launched across the VW group brands by 2029.

With the introduction of the "Drive Bigger" brand platform in 2019, Volkswagen of America, as it was then, communicated a long-term vision of striving for a higher purpose, challenging us all to move beyond self-interest and to consider being part of something bigger. The company further signaled its intentions by becoming one of five brands that signed up in 2019 to California's proposed fuel

economy regulations, which aim to impose stricter CO2 standards in an effort to help combat climate change.

Voltswagen means thinking big, acting boldly and leading progress. In 1955 Volkswagen of America was founded, and from the beginning the company dared to be different from other automakers. VW first won the love of the American public with the Type 1 Beetle, which eventually overtook the Ford Model T as the world's best-selling car, with more than 23 million sold. By establishing a storied legacy of breaking from convention and emphasizing a true driver-vehicle connection, Volkswagen of America in its time has become synonymous with humility, wit and humor, while the actual namesake translates to "the people's car."

"As our newly launched ID.4 campaign demonstrates, the humanity at the core of this brand remains its enduring legacy," said Kimberley Gardiner, senior vice president, Volkswagen of America brand marketing. "The tone of Volkswagen will be a consistent thread between the branded communications for our growing electric fleet to our gas vehicles. Over the course of the next few months, you will see the brand transition at all consumer touch points. This is an exciting moment for us, and we have been working through every avenue to make the transition clear, consistent, seamless and fun for all."

The company will preserve elements of Volkswagen's heritage by retaining its iconic VW Dark Blue color for gas-powered vehicles and Light Blue to differentiate the new, EV-centric branding. Starting today, new branding will roll out across all of the company's advertising, website and social media channels. Moving forward, "Volkswagen" will be placed as an exterior badge on all EV models with gas vehicles sporting the VW emblem only. Exterior and interior signage will soon roll out to all Volkswagen properties and dealerships across the US.

151. Also on March 30, 2021 Volkswagen posted on Twitter: "*We know, 66 is an unusual age to change your name*, but we've always been young at heart. **Introducing Volkswagen**. Similar to Volkswagen, but **with a renewed focus on electric driving**. Starting with our all-new, all-electric SUV the ID.4 - available today. #**Volkswagen** #ID4." The tweet included a video showing the "k" in Volkswagen changing to a "t."⁴⁸

⁴⁸<https://twitter.com/VW/status/1376868756782219266>;
<https://web.archive.org/web/20210330121247/https://twitter.com/VW/status/1376868756782219266>.



Volkswagen



Voltswagen

152. The foregoing statements contained in the March 29 draft press release, March 30 press release, March 30 Twitter post and news reports referenced above were false and materially misleading and/or omitted to disclose material facts necessary not to make such statements misleading because the Company had no plans to change its name to “Voltswagen.” Instead, Defendants purposely misled reporters and investors to gain publicity for the launch of the ID.4, among other reasons. When reporters asked Defendants multiple times whether the information contained in the March 29 draft press release and March 30 Press Release was accurate, the Individual Defendants and other Company representatives lied, omitting to disclose that the name

change was a promotional joke. Defendants are liable for the false and misleading statements contained in the news articles above because Defendants intentionally fostered the reporters' impressions as to the material facts repeated therein given that the reporters published the statements after confirming with Defendants that they were accurate.

LOSS CAUSATION

153. After the close of trading on March 30, 2021, the *Wall Street Journal* published a "WSJ News Exclusive" which was entitled "No, Volkswagen Isn't Rebranding Itself Voltswagen: German car maker says announcement by its U.S. operation was supposed to be an April Fools' gag[.]" The Wall Street Journal article reported, in pertinent part, that:

Volkswagen AG's U.S. subsidiary said Tuesday the company would rebrand itself as Volkswagen of America to promote its electric car strategy, but *a spokesman for the parent company in Germany later said the move was a joke.*

* * *

The problem for VW is that everyone took it seriously, creating confusion about the company's intentions and moving the shares, putting VW's communications team on the defensive.

* * *

The spoof began late Monday, when VW communications in the U.S. published a draft of the press release on the company's website and then quickly took it down, according to VW officials in Germany.

They left the document online long enough to grab the attention of journalists and VW fans, sparking a flood of online news and tweets.

* * *

VW's U.S. unit published the release in full again on Tuesday on the U.S. website, a move that suggested the name change was in fact real and would take effect as stated in the release in May.

The press release quoted Scott Keogh as president and CEO of Volkswagen of America saying: "We might be changing out our K for a T, but what we aren't

changing is this brand's commitment to making best-in-class vehicles for drivers and people everywhere."

Back in Germany, a VW official told the Journal that the name change shouldn't be taken seriously.

"There will be no name change," the official said.

Volkswagen's top executives have become more active on social media recently. The CEO, Herbert Diess, is a frequent contributor to his LinkedIn page and recently opened a Twitter feed. But until now the company has refrained from PR stunts or outlandish statements that are more typical of Tesla CEO Elon Musk.

Investors have been clamoring for shares of companies involved in electric vehicles and have recently been pouring money into the stocks of established car makers with solid EV plans.

(Emphasis added.)

154. On March 31, 2021, the press issued further reports regarding how the Company and its spokespeople purposefully misled to reporters. For example, *ABC News* published an article entitled "An unwelcome prank: Volkswagen purposely hoodwinks reporters: Journalists are wary of looking out for pranksters around April Fool's Day, but this time it came from a multi-billion dollar corporation[.]" The *ABC News* article reported, in pertinent part, that:

Volkswagen admitted Tuesday that it had put out a false news release saying that it had changed the name of its U.S. subsidiary to "Voltswagen of America" in an attempt to be funny and promote a new electric utility vehicle.

Several news organizations, including The Associated Press, USA Today, CNBC and The Washington Post, had reported the original press release as real news, some after being assured specifically that it was no joke.

* * *

"The Associated Press was repeatedly assured by Volkswagen that its U.S. subsidiary planned a name change, and reported that information, which we now know to be false," company spokeswoman Lauren Easton said. "We have corrected our story and published a new one based on the company's admission. This and any deliberate release of false information hurts accurate journalism and the public good."

The story emerged Monday after a news release was briefly posted on a company website and then disappeared, but not before catching some eyes. CNBC, which declined comment on the hoax, is believed to be the first major news organization to report it as legitimate news.

The AP wrote a story about it Monday after its reporter was assured by Mark Gillies, a company spokesman in the United States, that it was serious, Easton said.

It was a similar story at USA Today, where a reporter specifically asked if it was a joke and was told “no,” said the newspaper’s spokeswoman, Chrissy Terrell.

“The company used this fake announcement as a way to manipulate respected reporters from trusted news outlets to get attention for their marketing campaign,” she said. “We are disheartened that the company would choose this type of disingenuous marketing.”

The USA Today reporter who was initially lied to was more blunt.

“This was not a joke,” reporter Nathan Bomey wrote on Twitter. “It was deception. In case you haven’t noticed, we have a misinformation problem in this country. Now you’re part of it. Why should anyone trust you again?”

At first on Tuesday, the company doubled down on its story by reissuing the news release, which quoted Scott Keogh, the president and CEO of Volkswagen of America. It even changed its Twitter page, announcing that “we know, 66 is an unusual age to change your name, but we’ve always been young at heart.”

* * *

Gillies, after presenting the false information the day before, came clean on Tuesday. The Journal quoted a spokesman for the company in Germany as saying, “we didn’t mean to mislead anyone. The whole thing is just a marketing action to get people talking” about its new car model.

The AP and other news organizations that falsely reported the news later wrote about the hoax. “About that plan to change Volkswagen of America’s name.” wrote USA Today’s Mike Snider. “Never mind.”

155. On this news, Volkswagen ADSs representing common shares fell \$2.17 per ADS, or over 5%, from its closing price of \$37.75 on March 30 over the next two full trading days, to close at \$35.58 per share on April 1, 2021, damaging investors.

ADDITIONAL SCIENTER ALLEGATIONS

Defendants Knew Their Statements Were False and Materially Misleading When Made

156. The misrepresentations alleged herein were made by Defendants while they were in possession of material non-public information that contradicted their public statements and/or rendered them materially false and misleading.

157. Defendants knew at all times that the Company had no plans to change its name to Volkswagen. When reporters asked Defendants Gillies and Keough whether the statements concerning the purported name change were true they repeatedly assured reporters they were, knowing that they were in fact false and that the name change would not occur. Notwithstanding the fact that reporters repeatedly questioned Defendants as to whether the March 29 draft press release and March 30 Press Release were true, they continued to lie to them.

Defendants Had a Motive to Commit Fraud: Free Publicity in the Race to Compete with Tesla as the Top Electric Vehicle Manufacturer

158. Defendants' conduct was motivated by their desire to gain free publicity and the marketing and public relations benefits of rebranding in their quest to compete with Tesla and secure the position as the number one manufacturer of electric vehicles, without having to incur the costs and risks associated with rebranding. Defendants and Volkswagen CEO Herbert Diess repeatedly referenced Tesla and Elon Musk and to the desire to "overtake" Tesla. Defendants and CEO Herbert Diess tried to emulate Tesla and Elon Musk through their use of social media. Defendants also expressed frustration with the fact that the Company's electric vehicle efforts have attracted less media attention than Tesla's.

159. Defendants' fraud coincided with the U.S. release of the ID.4, Volkswagen's all-electric SUV. Defendants' fraud was motivated by their desire to gain publicity for the ID.4.

Defendants knew, from following Tesla and Elon Musk, that publicity was key to getting consumers interested in the Company’s electric vehicles. Indeed, as *The New York Times* noted, Volkswagen needed to “make a splash” to sell a lot of electric cars in the U.S. Defendants’ hoax enabled them to gain publicity without incurring the costs and risks entailed in legitimately changing the Company’s name.

160. Defendants admitted that they were motivated to gain publicity despite the danger of misleading investors. For example, after the fraud came to light Defendant Keough admitted that “the upside is, obviously, the social response has been the biggest numbers we’ve ever seen.” Indeed, social media analytics company Sprinklr compiled data showing that “Volkswagen” was mentioned 6,045 times- on Twitter, Instagram, Facebook, Reddit and other news sites and blogs which reached 150 million people as of the evening of April 1.⁴⁹

Defendants Acted Recklessly

161. Defendants’ conduct, especially in light the importance of and the Company’s stated commitment to regain the trust of investors and consumers following Dieselgate, constitutes an extreme departure from the standards of ordinary care, and presented a danger of misleading investors that was so obvious that Defendants must have been aware of it.

162. Additionally, Defendants closely followed the actions of Tesla and Elon Musk and were no doubt aware that the SEC fined Tesla and Musk \$20 million each in connection with Musk recklessly issuing false statements on social media in 2018 stating that he intended to take Tesla private at \$420 per share. Journalists noted that Defendants’ conduct in connection with the “Volkswagen” hoax mimics Musk’s/Tesla’s. Because Defendants were likewise doubtlessly aware

⁴⁹ Marty Swant, “Volkswagen’s April Fools’ Stunt Misses The Mark- And An Opportunity To Earn Back Trust,” *Forbes.com*, April 1, 2021.

of this similarity, they knew their conduct could subject them to liability pursuant to the securities laws. Defendants went ahead nevertheless.

The SEC Investigation Supports Scienter

163. On April 29, 2021 *Reuters* reported that the SEC had begun investigating VWoA concerning the Volkswagen hoax. German newspaper *der Spiegel* was the first to report the SEC investigation, stating that the investigation began in early April and that the Company confirmed had confirmed the investigation.

164. The SEC investigation did not come as a surprise. Law professors, stock market analysts and journalists opined that the SEC would commence an investigation given the effect of Defendants' false statements and subsequent revelation of the fraud on the Company's share price. Further, many noted the precedent for the SEC taking action against the Company given the similarities between Defendants' misconduct and that of Tesla and Elon Musk: "This week's Volkswagen incident bears some similarity to one in 2018 in which Tesla's CEO Elon Musk tweeted that he had the funding secured to take the company private — a comment that drove up the stock price. [] Later, it was revealed that the funding had not been lined up. Musk and Tesla each agreed to pay US\$20 million in penalties to the SEC."

INVESTORS' CLASS ACTION ALLEGATIONS

165. Investors bring this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons other than Defendants who acquired Volkswagen's ADSs (common shares) that were publicly traded on the OTC during the Class Period (ticker symbol: VWAGY), and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, present and former officers and directors of the Company members of the Individual Defendants' immediate families and their legal representatives, heirs, successors

or assigns and any entity in which Defendants have or had a controlling interest. Also excluded from the Class are persons who suffered no compensable losses.

166. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Volkswagen's ADSs were actively traded on the OTC. While the exact number of Class members is unknown to Investors at this time and can be ascertained only through appropriate discovery, Investors believe that there are hundreds, if not thousands of members in the proposed Class.

167. Investors' claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

168. Investors will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in class action and securities litigation. Investors have no interests antagonistic to or in conflict with those of the Class.

169. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- whether the Exchange Act was violated by Defendants' acts as alleged herein;
- whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the condition and business of Volkswagen;
- whether Defendants' public statements to the investing public during the Class Period omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;

- whether the Defendants caused Volkswagen to issue false and misleading filings during the Class Period;
- whether Defendants acted knowingly or recklessly in issuing false filings and public;
- whether the prices of Volkswagen's ADSs during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and
- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

170. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

171. Plaintiffs will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine in that:

- Volkswagen's ADSs met the requirements for listing, and were listed and actively traded on the OTC, an efficient market;
- As a public issuer, Volkswagen filed periodic public reports;
- Volkswagen regularly communicated with public investors via established market communication mechanisms, including through the regular dissemination of press releases via major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

- Volkswagen was followed by a number of securities analysts employed by major brokerage firms who wrote reports that were widely distributed and publicly available.

172. Based on the foregoing, the market for Volkswagen ADSs promptly digested current information regarding Volkswagen from all publicly available sources and reflected such information in the prices of the shares, and Investors and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

173. Alternatively, Investors and the members of the Class are entitled to the presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United States*, 406 U.S. 128 (1972), as Defendants omitted material information in their Class Period statements in violation of a duty to disclose such information as detailed above.

COUNT I

Violation of Section 10(b) of The Exchange Act and Rule 10b-5

Against All Defendants

174. Investors repeat and reallege each and every allegation contained above as if fully set forth herein.

175. This Count is asserted against the Company and the Individual Defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

176. During the Class Period, the Company and the Individual Defendants, individually and in concert, directly or indirectly, disseminated or approved the false statements specified above, which they knew or deliberately disregarded were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

177. The Company and the Individual Defendants violated §10(b) of the 1934 Act and

Rule 10b-5 in that they: employed devices, schemes and artifices to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of the Company's securities during the Class Period.

178. The Company and the Individual Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated, or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the securities laws. These defendants by virtue of their receipt of information reflecting the true facts of the Company, their control over, and/or receipt and/or modification of the Company's allegedly materially misleading statements, and/or their associations with the Company which made them privy to confidential proprietary information concerning the Company, participated in the fraudulent scheme alleged herein.

179. Individual Defendants, who are the senior officers and/or directors of the Company, had actual knowledge of the material omissions and/or the falsity of the material statements set forth above, and intended to deceive Plaintiffs and the other members of the Class, or, in the alternative, acted with reckless disregard for the truth when they failed to ascertain and disclose the true facts in the statements made by them or other personnel of the Company to members of the investing public, including Investors and the Class.

180. As a result of the foregoing, the market price of the Company's securities was

artificially inflated during the Class Period. In ignorance of the falsity of the Company's and the Individual Defendants' statements, Investors and the other members of the Class relied on the statements described above and/or the integrity of the market price of the Company's securities during the Class Period in purchasing the Company's securities at prices that were artificially inflated as a result of the Company's and the Individual Defendants' false and misleading statements.

181. Had Investors and the other members of the Class been aware that the market price of the Company's securities had been artificially and falsely inflated by the Company's and the Individual Defendants' misleading statements and by the material adverse information which the Company's and the Individual Defendants did not disclose, they would not have purchased the Company's securities at the artificially inflated prices that they did, or at all.

182. As a result of the wrongful conduct alleged herein, Investors and other members of the Class have suffered damages in an amount to be established at trial.

183. By reason of the foregoing, the Company and the Individual Defendants have violated Section 10(b) of the 1934 Act and Rule 10b-5 promulgated thereunder and are liable to the Plaintiff and the other members of the Class for substantial damages which they suffered in connection with their purchases of the Company's securities during the Class Period.

COUNT II

Violation of Section 20(a) of The Exchange Act

Against VW AG and The Individual Defendants

184. Investors repeat and reallege each of the allegations above as if fully alleged in this Count and every allegation contained in the foregoing paragraphs as if fully set forth herein.

185. This claim is brought under Section 20(a) of the Exchange Act against VW AG and the Individual Defendants.

186. VW AG was a controlling person of VWoA during the Class Period, due to VW AG's (a) ownership of 100% of VWoA; (b) possession and exercise of the authority to appoint all of VWoA's directors and executive officers; (c) direct involvement in VWoA's day-to-day operations, financial reporting, accounting and regulatory actions; and (d) participation in the preparation and dissemination of VWoA's public statements.

187. As alleged in the Complaint, Defendant VW AG caused VWoA and the Individual Defendants to violate Section 10(b) and Rule 10b-5 by making material misstatements and omissions in connection with the purchase and sale of securities and by participating in a scheme and course of business or conduct throughout the Class Period. This conduct was undertaken with the scienter of VW AG, which knew of or recklessly disregarded the falsity of VWoA's statements or their omissions of material fact during the Class Period.

188. By virtue of the foregoing, VW AG had the power to influence and control, and did influence or control, directly or indirectly, VWoA's decision-making, including the content of VWoA's public statements.

189. As alleged in the Complaint Defendants Keough and Gillies caused VWoA to violate Section 10(b) and Rule 10b-5 by making material misstatements and omissions in connection with the purchase and sale of securities and by participating in a scheme and course of business or conduct throughout the Class Period. This conduct was undertaken with the scienter of Defendants Keough and Gillies, who knew of the falsity of theirs and VWoA's statements or their omissions of material fact during the Class Period.

190. During the Class Period, Defendants Keough and Gillies participated in the operation and management of the Company, and conducted and participated, directly and indirectly, in the conduct of the Company's business affairs. Because of their senior positions, they knew the adverse non-public information regarding the Company's business practices.

191. Because of their positions of control and authority as senior officers, Defendants Keough and Gillies were able to, and did, control the contents of the various reports, press releases and public filings which the Company disseminated in the marketplace during the Class Period. Throughout the Class Period, Keough and Gillies exercised their power and authority to cause the Company to engage in the wrongful acts complained of herein. Defendants Keough and Gillies therefore, were "controlling persons" of the Company within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated the market price of the Company's securities.

192. Keough and Gillies, therefore, acted as controlling persons of the Company. By reason of their senior management positions, the Individual Defendants had the power to direct the actions of, and exercised the same to cause, the Company to engage in the unlawful acts and conduct complained of herein. Defendants Keough and Gillies exercised control over the general operations of the Company and possessed the power to control the specific activities which comprise the primary violations about which Plaintiff and the other members of the Class complain.

193. By reason of the above conduct, VWoA and the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by the Company.

PRAYER FOR RELIEF

WHEREFORE, Investors, on behalf of themselves and the Class, pray for judgment and relief as follows:

- (a) declaring this action to be a proper class action, designating Plaintiff Laszlo Rozsavolgyi as Lead Plaintiff and certifying him as a class representative under Rule 23 of the Federal Rules of Civil Procedure and designating plaintiff's counsel as Lead Counsel;
- (b) awarding damages in favor of Investors and the other Class members against all defendants, jointly and severally, together with interest thereon;
- (c) awarding Investors and the Class reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- (d) awarding Investors and other members of the Class such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Investors hereby demand a trial by jury.

Dated: June 3, 2022

THE ROSEN LAW FIRM, P.A.

/s/ Sara Fuks
Sara Fuks (*pro hac vice*)
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Lead Counsel for Lead Plaintiff

THE LAW FIRM OF CARLTON F. BENNETT, PLLC

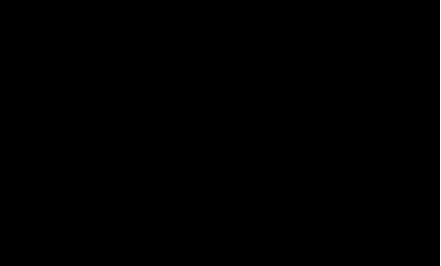
/s/

Carlton F. Bennett
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Virginia Beach, VA
Tel: (757) 486-5454
cbennett@carltonbennettlaw.com

Local Counsel for Lead Plaintiff

Certification and Authorization of Named Plaintiff Pursuant to Federal Securities Laws

The individual or institution listed below (the "Plaintiff") authorizes and, upon execution of the accompanying retainer agreement by The Rosen Law Firm P.A., retains The Rosen Law Firm P.A. to file an action under the federal securities laws to recover damages and to seek other relief against Volkswagen AG. The Rosen Law Firm P.A. will prosecute the action on a contingent fee basis and will advance all costs and expenses. The Volkswagen AG. Retention Agreement provided to the Plaintiff is incorporated by reference, upon execution by The Rosen Law Firm P.A.

First name: Thomas
Middle initial: D
Last name: Wells
Address: 
City:
State:
Zip:
Country:
Facsimile:
Phone:
Email:

Plaintiff certifies that:

1. Plaintiff has reviewed the complaint and authorized its filing.
2. Plaintiff did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.
3. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
4. Plaintiff represents and warrants that he/she/it is fully authorized to enter into and execute this certification.
5. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.
6. Plaintiff has made no transaction(s) during the Class Period in the debt or equity securities that are the subject of this action except those set forth below:

Acquisitions:

Type of Security	Buy Date	# of Shares	Price per Share
Common Stock	03/30/2021	42	36.89

7. I have not served as a representative party on behalf of a class under the federal securities laws during the last three years, except if detailed below. []

I declare under penalty of perjury, under the laws of the United States, that the information entered is accurate:

YES

Certification for Thomas Wells (cont.)

By clicking on the button below, I intend to sign and execute
this agreement and retain the Rosen Law Firm, P.A. to
proceed on Plaintiff's behalf, on a contingent fee basis.

YES

Signed pursuant to California Civil Code Section 1633.1, et seq. - and the Uniform
Electronic Transactions Act as adopted by the various states and territories of the
United States.

Date of signing: 05/16/2021



A handwritten signature in black ink, appearing to read "Thomas P. Wells". The signature is fluid and cursive, with "Thomas" on the left, "P." in a smaller box in the middle, and "Wells" on the right.